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ABSTRACT

This paper examines the legal and historical background of school choice by American Indian parents and its implications for school choice for a wider public. In the 19th century, American Indian parents had no choice about whether or where their children would be schooled. On many reservations, children were forcibly removed from their parents and taken to Bureau of Indian Affairs (BIA) boarding schools, where harsh methods were used to erase their language and culture. Some reservation mission schools were favored by Indian parents because they were nearby, the children were treated better than at BIA schools, and Indian languages were not forbidden. In 1904, federal support was withdrawn from sectarian schools on reservations. After a Sioux parent brought suit, the Supreme Court ruled that tribes had the right to use their own trust funds to support reservation sectarian schools. This opinion is the basis of Indian parental choice of many kinds of schools, any of which might be supported by Indian people collectively in accord with tribal policy. By the 1970s, this choice included BIA day schools and boarding schools, public school attendance with residence in a BIA peripheral dormitory, cooperative schools (public schools with a majority of Indian students), and tribally controlled schools. BIA school enrollments declined considerably in the face of attractive alternatives. Since then, school choice has forced major reforms of BIA schools, to the point that they are now competing successfully for Indian students. In many respects, the Indian schools are now "lighthouse" schools with the potential to help the rest of the American educational system to change. (SV)

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ED 362 377

# EDUCATIONAL VOUCHERS:

# VOUCHERS IN THE AMERICAN INDIAN EDUCATIONAL SYSTEM.

PRESENTED AT AERA ANNUAL MEETING, ATLANTA, APRIL 1993

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Vouchers have been exercised in the United States in higher education, most notably in the GI Bills of Rights by veterans of the World War II and the Korean War. I was the first person to exercise a voucher after the Korean War on the campus of the University of Minnesota in 1953. From the human capital point of view, according to Schultz and others this experiment was very successful, as it took a generation of young people and transformed them from high school graduates and drop outs to much higher productive involvement in the American economy and polity. Had the experience of post World War I been repeated, the same generation would have participated in a brief rise in the economy, to be followed by a severe fall which would have been a long-lasting structured depression. What began as a means of helping veterans to integrate at a higher level in the economy than they would have without the GI Bill, resulted in a restructuring of the American economy which demanded higher levels of skills and in turn provided greater demands by consumers for more sophisticated goods. Providing vouchers to discharged servicemen and women has become a common way of reimbursing them for their time and helping them to find occupations which repay their opportunity costs.

In basic education, only American Indian parents have had the right to exercise a voucher which provides choice between government and non-government schools. The right of Indian parents to a choice between government and non-government schools was guaranteed by the U.S. Supreme Court in the decision Quick Bear v. Leupp (210 U.S. 7, 1908). As is common in landmark cases, it was decided by the court's grasping a number of very important and complex issues presented in the arguments and reducing them to a few principles. This landmark case was not recognized as one until the Amish case decision written by Chief Justice Burger in 1972 (State of Wisconsin v. Yoder, 406 U.S. 205). Quick Bear has yet to receive the attention due it, nor has Wisconsin v. Yoder, but as school choice becomes more important, it will inevitably receive more attention and many more citations. This paper is a development of the legal and historical background of Indian parent choice and its implications for school choice for a wider public.

RC 019356

The background of the case is relevant to the controversy over school choice. In 1896 and 1897, the Congress of the United States in its appropriation acts reduced the annual federal appropriations for schools run for American Indian students by sectarian groups, and stated that by 1900, no more appropriations would be made for those purposes (Quick Bear v. Leupp, 210 U.S. 50 at 71). Congress had decided that it no longer wanted religious groups to lobby it for appropriations for their Indian schools. The Bureau of Indian Affairs was to replace all such schools with schools run by the federal government, under the operation of the BIA. Among those which were replaced were Carter Seminary in Oklahoma which had been a Methodist school. What confused some observers, including Indian tribal members, was that treaty and trust funds could continue to be used for the support of sectarian schools. The 59th Congress in fact tabled a resolution barring the use of treaty and trust funds for the support of sectarian schools (at 75).

In South Dakota, the St. Francis Mission School was contracted by the Bureau of Indian Affairs at the behest of the Rosebud Sioux nation to educate the children of parents who desired that education for their children. Children of some parents of the nation were being sent to BIA schools. The disadvantage in children attending BIA schools was that many of them were very remote from the reservation, and once a child was taken by the BIA authorities for schooling, those authorities were free to send the children to whatever school they deemed appropriate. The reality of assignment of children to Indian schools was that competition among bureaucrats for children decided where they would go, irrespective of parental wishes about proximity to the reservation. Therefore, many Indian children were sent to Carlisle Indian school in Pennsylvania, the very model of a military BIA school founded by Pratt, who was an officer in the Civil War and an Indian fighter. At Carlisle, many Indian children died of diseases and loneliness - the place did not coddle or nurture those youngsters whose ages ranged from six to seventeen. Further, it intended to and did immerse the children in an alien culture, with only English speaking, no reminders of Indian life, no pictures of home or family, or any notice in the lessons of the day that the Red People had ever existed on the face of the earth. This cultural cleansing became the model of all BIA schools and served to remind parents that their children were mere objects of state to be placed wherever administrative convenience or bureaucratic reasoning dictated. In the summers, the children were placed in homes of people in Pennsylvania where they worked as maids or servants or as manual workers in the family business. This was intended to be the apprenticeship in the civilizing process. By the time the student returned to the reservation, providing s/he survived, it was the return, not of the native, but of the stranger to an ancestral home, the cultural contours of which had long been degraded if not completely forgotten.

Indian parents in fact had no choice about whether their children would be schooled any more than where they would be schooled. Commissioner of Indian Affairs Browning stated in 1896, in answer to

a question whether the Indian parents had a right to decide where their children would go to school that "It is your duty to build up and maintain the Government day schools as indicated in your letter, and the Indian parents have no right to designate which school their children will attend" (Quick Bear v. Leupp, 210 U.S. 50 at 66 [footnote]). The equivalent of press gangs operated on the reservations with orders to round up as many Indian children as necessary to fill the places provided by Congressional appropriations. The penalty for hiding one's children from the press gangs was imprisonment, if the child was found to be of school age. Some children hid in the forests or canyons to avoid schooling as one would imprisonment, which in fact it was.

THE BIA BOARDING SCHOOLS

The BIA boarding school system was enough to frighten any child, Indian or otherwise, as the inmates returned to tell of the deaths, the loneliness, the forced work, the few pleasant adults, the punishment for using one's own language, games, stories, and religion. Each child was forced to choose a religion, and often, the choice was made in a corner of the dormitory or gymnasium in which a representative of a certain sect would sign up the children for catechism and Sunday church services, including lengthy Sunday school sessions. All of this in the name of the whitening and civilizing of the children.

Pratt was proud of the military discipline which included the uniforms, the military formations beginning early in the morning to get the morning report to determine whether there had been any deserters during the night. The last formation at night was usually to harangue the children on something that had happened during the day such as an instructor's loss of an article which was blamed on the children, some fight or other, some slight suffered by a dormitory attendant, and many warnings of the dire consequences of mixing of the sexes during the approaching night hours and any attempts to run away. Anyone who found a runaway Indian child in the state was asked to return or hold the same until the authorities would recover the runaway.

Physical discipline was constant. The BIA school founders believed with the early New Englanders that he who did not castigate the child to beat the evil inherent in him was cooperating with Satan. Children were handcuffed to the beds for long periods of time, forced to spend nights in deep holes beneath the dormitory, to clean latrines for long periods of time, to be deprived of certain foods, and to be deprived of physical activity. Curiously, in all of the BIA history even until very recently, there was no recognition that children need lots of physical activity, and that Indian children have a heritage of physical exertion, the absence of which is physically and mentally debilitating to them. Physical activities would have solved many of the worries of the school wardens who were concerned about preventing runaways rather than raising healthy, active students. The opportunities for shaping at least a physically active student body which would have contributed

something of worth for the Indian community was steadfastly ignored. The consequence of training generations of children to be sedentary has contributed in part to staggeringly high disease rates of diabetes, early heart and respiratory problems and has gone hand in hand with alcoholism, glue and gasoline sniffing and other forms of chemical dependence.

In the early 1980's, what emerged is that BIA schools had furnished abundant opportunities for BIA staff to exploit the students sexually. Hundreds of Boys and girls have been used over the years by staff at their pleasure. It is hardly surprising that it would have been otherwise with parents and students in such powerless roles. The present requirement that every prospective BIA employee pass an FBI check prior to employment to investigate any prior history of sexual contact with students is a policy enacted in the 1980's.

Pratt's curriculum was designed to train the hands of the students, with little emphasis on mental skills. It was assumed that all Indians would become farmers or low level mechanics. No mention was ever made by Pratt or his disciples that the BIA educational system should one day have some Indian teachers. That was the White Man's property. School systems run in other countries for indigenous peoples have the same point of view. In Sweden after hundreds of years of contact between nationals and subject Laplanders, Ministry of Education people will still tell you that there are not yet qualified people to take over teaching positions. In Australia, an indigenous teacher is rare indeed. The indigenous people have long been treated by the conqueror as, if not hewers of wood, at best wood carvers. It was not until the 1960's that anything resembling an academic curriculum was attempted in BIA schools. Many of the Indian people who now run the BIA educational system were told by their teachers or counselors that they would never be college material. When our program for training American Indian administrators began in 1970 at Penn State University, the BIA officials told us that we wold never find enough qualified Indian people in the BIA schools to fill ten Masters' slots. We found 17 easily and could have tripled that number, at the same time that two other institutions were starting similar programs.

The Pratt prescription for Indian children was cultural cleansing, preparation for farming or menial non-farm labor positions, and harsh discipline. His prescription was followed for decades in the BIA. Carlisle itself was closed in 1917 to allow that site to be occupied by the US Army for staff training. The student contingent was shipped off to Haskell where there now exists an Indian Junior College. Pratt's model was to be found wherever a BIA school existed well into the 1970's. At that time, the Indian student activism and tribal sovereignty threatened the very existence of the BIA schools. As happens with boot camp or prison graduates, there was a sense among the last generation of Carlisle graduates of survivorship, a pride in having outlasted the system and a

respect for those staff people who went against the norms to be humane to the children. But they all know what it cost them and their families. One ugly residue of the BIA dormitory system is the irresponsibility it bred among parents, especially the second and third generation parents who had not fought the system. These parents did not have to house and care for their children psychologically and were free to concern themselves about other things while their children were being cared for, however badly.

Indian parents at the turn of the century knew that the BIA system would harm their children in many ways and tried many ways to fight the system. Keeping their children out of school by hiding them would in the long run damage their chances to participate in what was coming in American society. The parents wanted some kind of choice of where their children would go to school, and to be able to have their children at least during the summers. It was an unreasonable position as the BIA bureaucrats saw it.
The religious schools on the reservations were popular with parents because they were close to the parents. Children were treated better than in BIA schools, and were not treated as savages to be tamed by the whip and the isolation cell. In many such schools, the languages of the children and their parents were not forbidden sounds because the religious leaders and teachers wanted to translate prayers, rites and scriptures into the Indian languages. The notion of Indian children as children of God also was a welcome notion to the Indian parents. Military discipline was not the rule in such schools but discipline was strict. Baptism and confirmation were important ritual markers for the children to remind them of their membership in a City of God. Recreation was more fun and more widely used to air out the children's energy than in the BIA schools. With religious observances went nice clothes, nice food, a break in the routine of classes, a chance to see parents and other family members, and to show off to them as well. Family was important in the religious school, because it was felt that a Christian child in a Christian family would more likely survive as such rather than as an isolate in a family. Families were invited to religious schools at least for ceremonies and programs to observe their children's ritualized participation. BIA schools would not invite parents and would not permit them to come during the school year, in most cases. The Pratt system taught children to be ashamed of their parents and relatives and to be as unlike them as possible.

Concern by Indian parents for their children was expressed in tribal meetings where their comments, in their own languages, were not as likely to be used as excuses to cut them off from rations, or to imprison them on misdemeanor charges. As long as there was some kind of tribal organization there was a forum, however weak, for expressions of parental concern. The tribal organization, then, became the focus for a protected expression of parental concern about where Indian children would be educated.

THE QUICK BEAR V. LEUPP CASE

The Sioux nation made a number of treaties with the U.S. Government beginning in 1867. These stipulated that the government would in return for immense grants of land to the federal power, provide schooling for children, tools for farming and consultants to help the tribal members begin to farm. Since the time of Jefferson, the policy of the U.S. government had been to turn Indian people into farmers. The treaties provided for one payment to the Indian nation for its lands and that amount of money would be held in trust for it by the U.S. government. The so called treaty funds or trust funds were invested for the nation and the nation could designate uses for the money. The treaty fund set aside for the Rosebud Sioux nation was $3 million. Interest accumulated on the investment of that money was to be used as the Sioux nation wished. The discretion of the BIA officials was powerful and no expenditure was legal unless authorized by the Secretary of the Interior.

The other government money was an amount authorized each year by the Congress in the budget for the upkeep of BIA services to the various tribes as directed in the various treaties. This money was appropriated money and its use was quite distinct from the trust money or treaty fund money. However, it was possible to use this money also for purposes which the Sioux nation requested, among which was the support of St. Francis Mission School. The latter money was administered by the BIA officials. The treaty or trust funds could be considered a kind of checking account which the Indian tribe had access to while the appropriated money was different in origin but also could be used for purposes designated by the tribal authorities, as long as it was used in accord with the treaty language. The annual appropriations, over and above these two types of money, were restricted by Congressional intent to supporting only government schools.

Pres. Mckinley abrogated the Browning ruling in 1901, and in 1904, President Theodore Roosevelt met with cabinet members to discuss the matter of application of "Tribal funds" for supporting sectarian schools (Quick Bear at 66 [footnote]). The president was legally advised in the meeting that the laws providing for the use of trust fund money for sectarian schools were still in force so as to allow the discretion of the Secretary of the Interior for these purposes.

After the closing of several of the religious schools brought on by the federal policy of non-support, St. Francis Mission School decided to continue but to depend as much as possible on its own resources which were mainly donations from people in the Eastern part of the United States. This kind of support was somewhat unstable, and not enough to support a boarding school, however. The tribal members who discussed the situation with parents knew that they wanted the school to continue. The tribal council after 1900,

in order to secure the future of the school and to secure the place of their own children in the school, decided to support the school. The tribe requested expenditures for the school from its treaty funds. No move was made to support the school with appropriated funds not related to treaty obligations.

Ruben Quick Bear thereupon sued in Federal Court of Appeals of the District of Columbia to prevent the Secretary of the Interior to make payments to the Catholic Board of Missions for the support of the St. Francis Mission on the Rosebud reservation school as contrary to U.S. government policy. The District Court of Appeals upheld the decision of the Secretary of the Interior in accord with the desires of the tribal members. The case went on appeal to the U.S. Supreme Court where it was argued in February, 1908. The decision written by Chief Justice Fuller was handed down in May, 1908. A unanimous court stated that the right of the tribe to use its trust funds was guaranteed under the treaties. Any interference in the right of tribes to use their own trust funds would place the good faith of the U.S. government in question because of its promise to the various tribes that the funds were really theirs to use. Happily for the small amount of autonomy the tribe possessed, at that time, there was no ACLU to question its right to make decisions of this kind.

The court distinguished between annual unrestricted appropriations, appropriations which were due the Indian nations in accord with treaties and treaty or trust funds. The court stated that it would be illegal for unrestricted appropriations to be used to support religious schools. The decision outlined the kinds of uses that could be made of trust funds and the processes which had been used to oversee the trust.

Citing from the Government Brief is the following: "There is no injustice in permitting an Indian to select a school for his children under the auspices of the church to which he is attached, and allowing a portion of the tribal funds or a portion of the annuities or rations to be applied" (at 75). The Chief Justice's last paragraph cites from the opinion below of the Court of Appeals which stated: "The Treaty moneys and Trust moneys are the only moneys that the Indians can lay claim to as matter of right; the only sums on which they are entitled to rely as theirs for education; . . . yet the money must not only be provided but expended, for their benefit and in part for their education; it seems inconceivable that Congress should have intended to prohibit them from receiving religious education at their own cost if they so desired it; such an intent would be one 'to prohibit the free exercise of religion' amongst the Indians, and such would be the effect of the construction for which the complainants contend" (at 82).

Implicit in the decision is the principle that an Indian nation has a kind of integrity which must be respected by government

authorities. That integrity is a cultural integrity. The Indian nation can decide where its children can go to school so that it would determine the location of least possible cultural violence to the child and the least chance of alienation from parents and tribal members. The right of the Indian nation to choose is rooted in the treaty which is a specific document, not a generic one for indigenous people in general or for Indian nations in general. Each Indian nation has a peculiar insight into the nature of its culture and the erosion which the White Man's schooling is likely to cause. The Court explicitly addressed the matter of collective decisions about the use of money for education by denying that each member of a tribe would have to assent to a use of money for schools as for St. Francis (at 76).

The power of the parents collectively to choose as well as the right of the parent to choose individually is important, because the continued cultural existence of the Indian nation depends upon the exercise of choices by parents collectively to support and choose a school for their children. If the right to choose were only an individual one, there would be no need to support the decision of a tribe or nation to support a school and to choose to send its children to it. Schooling which is imposed upon a nation in the Pratt model does intentional violence to the Indian nation's culture and thereby to its children's well being. Emotional and psychological factors did not weigh in the arguments before the court and the court was unwilling to enter into discussions of culture and schooling, but restricted itself to a discussion of the decision making power of federal authorities who administered the trust fund. There was no question at that time about the eventual destination of the children schooled anywhere - it would be to make them into American farmers, not Indian hunters or gatherers. But the pace of acculturation and the humaneness or lack of it were matters of concern for Indian parents and tribal authorities.

The decision foreshadowed the Pierce v. Society of Sisters (268 U.S. 310, 1925) decision which struck down an Oregon law passed by initiative requiring all children to attend a public school unless they were retarded or disabled or lived in very remote areas. The right of Indian parents to choose a school and to support it with their own money as a collective decision is the precedent upon which all parental choice of schools rests. The court saw the linkage between the free exercise clause and the right of the parent to choose a school in which the family's values and culture would be respected. That this case would be decided at the time when Indian parental rights were being so widely violated is also noteworthy. It was not a case decided in the spirit of the times, but one decided contrary to the prevailing bureaucratic power and public opinion that Indians should hurry up and get out of the blanket.

## THE IMPORTANCE OF QUICK BEAR FOR SCHOOL CHOICE

The opinion written by Fuller was noteworthy for being far in advance of its time in recognizing parental rights and the linkage between the free exercise clause and the exercise of parental rights. The choice of Indian people of a sectarian Catholic school is a basis of Indian parental choice of many kinds of schools, any of which might be supported by Indian people collectively in accord with tribal policy. Herein, then is the charter for support of nonsectarian tribal schools as well, and the concept of choice among the types of schools which are provided for Indian children.

It would not be too mach to say that this opinion is the charter for school choice for all parents, no matter their ethnic background. If parents can choose a school which they are supporting, especially in the name of free exercise of religion, then the state cannot insist on putting the child in a secular institution. The case allows those who support a school to send their children there. The relationship between religion and culture has long been recognized not only by social scientists but also by judges. The common law recognizes the intimate relationship between religion and the culture of the group. The Supreme Court addressed this linkage in its famous Amish case, State of Wisconsin v. Yoder (406 U.S. 205, 1972). That court, following the Quick Bear court, recognized that schooling had the power to deculture the child by providing a secular atmosphere, and in so doing, destroying the culture and religion of the Amish. If the State of Wisconsin were permitted to insist on attendance of Amish children in high schools, reasoned the court, the young would become alienated from the faith and the rural way of life. The group would lose its religion and its culture, and finally, its reason for being. From the time of that decision, the Amish have the right to terminate the education of their children at the end of the eighth grade; the primary schools for their children are their own. The children do not enter public school.

The religious schools which served Indian reservations continued until the 1970's in accord with the paradigm established by Fuller. The assault on Indian culture, however, intensified in BIA schools, with the exception of the 1930's when a group of Progressive educators, led by Carson Ryan, applied the community school idea to reservation schools. Involved in that effort in Alaska, during the summers, was a young professor by the name of George I. Sanchez, who had linkages to the Progressive movement and who was later to become so prominent in the freedom of assignment to schools for Hispanic children in Texas. He was typical of the many Progressive educators to become involved in the movement to make Indian education relevant and humane. This experiment involved Indian people as never before and proved that the Indian parent and tribal member could participate in the organization of Indian education. There were those who condemned the experiment as too artsy-craftsy, too rooted in the past cultures of the Indian nations as they were

changing before their own eyes into more modern people. However, the experiment proved that Indian people were capable of participating in their own educational policy making, at least at the local level.

The BIA system as established by Pratt and as applied by Browning destroyed the remnants of earlier excellent schools established by the Choctaw and the Cherokee of Oklahoma to mention only two nations which had established classical schools. The only people in the last decade of the nineteenth century in the State of Oklahoma who could read and write Latin and Greek were Indian people who were so educated in the tribal schools prior to the BIA takeover of those schools in the 1890's. For most Indian nations, choice vanished or never existed except in those places where religious schools were available to Indian families. The schooling of the Indian child in the BIA school was not primarily oriented to learning mental skills so much as socialization into Anglo culture and some orientation to low level crafts and farming.

The availability of public schools for Indian children was considered to be a moot point in the aftermath of separate but equal schools, as the Supreme Court decided in the Plessy v. Ferguson case. In those places where Indian children were not recognized as such, they were admitted to public schools, but they were routinely denied in most states, as the prevailing understanding was that they were wards of the federal government which must provide for their schooling. The ban on Indian children was lifted in California by the California Supreme Court in 1924 (Piper v. Big Pine School District, 193 California 664, 1924). The case turned on whether it was legal to segregate Indian children, primarily on the basis of their skin color or racial characteristics. That ruling came hard on another step for Indian people in a congressional act which recognized their citizenship. The Supreme Court of California stated that it could not classify Indian children as Negro or Asian, both of whom were sent to segregated schools. The Mexican American children were segregated at the same time on a de facto basis, the reasoning being that their language use required special schooling. Segregated public schooling was the rule but whatever it was, Indian children had access to it after 1924. Indian schooling by its nature was segregated so Indian parents did not bring action to integrate their children into White schools.

The New Deal provided an incentive with the Johnson-O'Malley Act of 1936 for public schools to educate Indian children. States which provided a plan for schooling of Indian children were given millions of dollars to accommodate Indian children. Supposedly, the expenditures of this money was to have been reviewed by Indian parent committees, but that regulation was ignored until the late 1960's. Interestingly, the New Deal provided two very different choices, almost mirror reversals, for Indian parents. One was the assmilationist public school system which was as harsh on the use

of Indian language as the BIA schools were, but the curriculum of the public schools was indeed incongruent with the culture of Indian people. The curriculum was mainly oriented to mental skills acquisition with some attention to industrial arts and vocational subjects. The BIA schools under Carson Ryan were centers for manual skills which were supposed to allow the Indian people to reassert their culture in the arts and crafts and farming. The Johnson O'Malley funds might have been used to help school districts provide cultural experiences for their Indian students, but this did not happen anywhere. In fact the money was spent for general purposes and districts with large Indian enrollments began to depend upon it to supplant their own local support, a practice which was flagrantly at variance with the intent of the law. School Districts and State Departments of Education in the Western part of the United States saw that money as a bribe to allow Indian students in the front door. Nevertheless, a third choice had been provided for large numbers of Indian children, after the BIA schools and the religious schools under contract to or supported by the Indian nations.

The BIA schools accommodated Indian children in three kinds of educational programs: the day school, the boarding school and beginning in the 1930's, a peripheral dormitory which was simply a home for the Indian students who attended a nearby public school. The origins of the peripheral dormitories was as much to accommodate public school districts who wanted the enrollments to provide them with federal tax dollars as it was to provide the Indian students with the opportunity to attend public schools.

A fourth kind of school emerged in the 1940's in the Dakotas, which was the cooperative school. That hybrid was a public school which enrolled largely an Indian student body. The schools were formed when the Missouri dams flooded Indian lands, against the will of the Indian nations involved. As a payment of some sort, the Indian day schools were closed and the Indian students were bussed or housed in dormitories close to a public school. All the funds for the cooperative schools were provided by the BIA. The nice feature for the non-Indians living in those areas, such as Ft. Berthold or Cheyenne River, was that one paid no taxes whatever for the support of the local school and the school board was totally comprised of non-Indian members. The word "cooperative" in the title was all on the part of the Indian people; the non-Indians ran the schools and reaped the benefits. The teachers and the administrators were a mixture of BIA and public school employees, but the elected school board was responsible for both sets of employees.

Nothing could ever reimburse the Indian nations along the Missouri stem for the loss of their best bottom lands, and the tearing apart of the tribal structures by physically breaking up reservations where people had lived for generations. In the case of the Mandans (no, they did not all die of smallpox during the mid 1800's), they had lived on those lands since time immemorial. No Indian was

involved in the transfer of their lands to the Army Corps of Engineers or the subsequent beginnings of the cooperative school. So there came to be a fourth type of school which the Indian parents could opt for. It was until the 1970's a school climate hostile to Indian children even though they constituted by far the largest percentage of its students.

The mission schools which were supported by federal government funds during the early part of the 20th century were ultimately cut off from federal funds, but some of them continued to exist in that form until the late 1960's. They were referred to as mission schools because they had religious support. They were popular choices among the Sioux nations, the Ojibway, the Navajo and the Tlingit. The Catholic, Methodist, Anglican and Presbyterian churches all supported at least one mission school. That choice to a very limited extent still is in existence. The mission schools changed their governance structures during the 1970's so that Indian nations assumed control over them, even though the teachers might still be affiliated with a religious organization. The term "mission school" today implies a school run with the sanction of the Indian nation and under its direction. They are in a sense now a subset of the tribal schools which are mentioned next.

In the 1960's a determination voiced clearly by Raymond Nakai in his inaugural speech as Tribal chairman of the Navajo Nation early in 1963 signalled a new era. Sitting on the platform with him was President John F. Kennedy who had appointed a non-Indian as Director of the BIA. Nakai stated in blunt terms that his nation and his Tribal Council would no longer accept third class status and dictation from the BIA bureaucrats or any other group of officials and that went for the officials of the states of Arizona, New Mexico and Utah. From then on, the increasing voice of Indian people was for self-determination. During the Johnson administration, which ended in 1969, as during the Kennedy administration, little progress was made toward letting Indian nations decide their own fates, including the right to control their schools. During the early 1970's the Indian people began to vote in school board elections and to elect some Indian board members. The day of the shut-out of the Indians from having a voice in their own schools was over as of 1975. It was during the Nixon administration that the federal government first enunciated the policy of Indian self-determination. Whatever else one might think of his presidency, Indian control of education happened during his watch and he allowed it to happen, unlike his two liberal predecessors.

During the era of self-determination, Indian junior colleges and tribal schools were organized. The tribal school, of which the Rough Rock school in the Navajo nation was the most famous early example, followed by the ones at Neah Bay, Washington, the Rocky Boy school in Montana and the Little Red Schoolhouse in Minneapolis all shared the characteristics of enthusiastic, hands-

on parental and board control and involvement. Indian languages, a cultural curriculum including Indian games and arts, environmental studies related to sciences and the social studies, and special reading materials highlighting the contributions and roles of Indian people were marks of these very special schools, but their physical surroundings were humble. What was not humble were the spirits of the teachers and the pride of the children in being Indian. These schools were in many ways models for the Indianization of other types of schools. This was a fifth type of choice for Indian parents. They were subsidized in part with federal funds, foundation grants, federal grants for which they had to compete, and tribal funds. The financing of the schools required a great deal of ingenuity over the years to survive. I have included the mission schools as a subset of this type because they are Indian controlled and sometimes receive tribal funding assistance.

The historical origins of each of these was somehow different, and each has served a different purpose and clientele. For the past twenty-five years, at least, the public schools have served the greatest proportion of Indian students and that proportion continues to increase. Probably the highest achieving Indian students attend these schools, and they serve about 75% to 80% of all Indian students. There is a cultural program supported by Title VII of the Indian Education Act which provides for a cultural curriculum for even a small number of Indian students, but the administrators and boards of many schools, even some with large Indian enrollments, are hostile to this program and will not apply for it.

The mission schools still have a religious flavor and have the stricter discipline of the older mission schools. They also unabashedly teach values which now must be reconciled with historical Indian religion and morals. The public schools are aggressively secular and tend to ignore the culture of Indian students, no matter how many Indian students happen to be in the student body. In line with ACLU doctrine, the students, no matter what their inclinations toward values or religion, cannot be accommodated for that purpose. So any attempt by an Indian student to use peyote which is a sacrament of the Native American church, is unlawful. Any attention to Indian ceremonial rites is ignored because of the possible religious connotations. Therefore, given the hostile cultural environment of the public school, many Indian students choose tribal schools, including mission schools, or BIA schools. The curriculum of the tribal schools and of the BIA schools is much more hospitable to Indian children and their parents. The cooperative school is now much less important in numbers served than was true twenty years ago, and are harder to distinguish from public schools than they used to be. They accommodate a small number of Indian students.

The surprise of the 1990's is the resurgence of the BIA schools. During the 1960's the Kennedy subcommittee report on Indian education found low achievement, a lack of interest on the part of BIA teachers, and little change from the conditions of 1928, the year that the famous Meriam report on Indian administration was published. The Meriam report noted the very few Indian teachers and the need to recruit more of them, the harsh discipline used in the schools and the forcing of very small children to attend dormitory schools which allowed parents to become irresponsible, and school staffs to be abusive or nurturant, depending upon their whims. Reform did follow the Meriam report, because Pres. Roosevelt handed over the BIA to a group of Progressive educators. No reforms attended the Kennedy report until the 1970's when during the Nixon administration, the federal government began to require BIA schools to work with authorities of Indian nations in establishing school boards, and then to hand over power of hiring, drawing up a budget, and deciding on curriculum matters to those boards.

An essential condition for Indian control of their schools occurred during the 1970's was the training of Indian administrators and other educational personnel to run Indian schools, to participate in the national discussions about Indian education and to administer Indian education at national and tribal levels. The non-Indians began to either disappear from the scene or to play far less important roles in these events. A critical mass of Indian educators prepared at Penn State, Minnesota, Arizona State and Harvard, to mention four important sites. The first cohort of this critical mass decided (1970-71) at the very beginning of their experience that they were not simply Indians wanting to take over from non-Indians but that they would change the system to make it more relevant and humane for Indian parents and students. That was the important part of the preparation process, far more so than the obtaining of advanced degrees. Had the Indian administrator trainees not made that kind of decision, the BIA system would today be largely unchanged and might indeed be dead. The BIA officials of 1970-71 could see that something was brewing which would make their lives very different if not difficult and they at first fought the Indian graduate students who were in BIA teaching positions in not-so-subtle ways. The Indian students learned from that experience that the old guard, including a few Indian gentlemen, were not to be trusted and that they could be fought in some very effective ways. Most important, they became a cohesive, confident, risk-oriented group.

The reform of the BIA schools is a story of great importance for several reasons. First, it is an example of how previously powerless people can take hold of their institutions and change them significantly. Second, it reveals the power of choice to influence an educational system for the better. Third, it shows that a government institution can be reformed if clients have the knowledge to influence that change. Vouchers alone can be influential in causing change to happen in a system. The question

that must follow is what kind of change ought to happen if the voucher-holding parents begin to cause change.

The powerlessness of Indian parents in the 1960's left the BIA schools in the status of custodial institutions which could not teach their students the basic skills, and which de-energized their students completely. During the Johnson administration there were moves to develop Indian lands by large corporations but not to improve Indian education. The Indian Self-Determination Act provided the legal means for parents and Indian board members to influence their schools. The regulations which followed the enactment of the Self-Determination Act firmed up the means by which parents and board members could affect their schools' curricula and choose the personnel for their schools.

The Indian graduate students who looked at their own system and watched the sloth of the administrators determined that when they got control things would be different. They were determined to change the system and knew how to do it. Beginning in the 1970's the graduates got their chance. A graduate of the Harvard program was the first of the new wave to take over the Indian education office of the BIA. A Minnesota graduate took over the responsibility for Indian education in the State of Minnesota. The first American Indian to head the Office of Indian Education in the Dept. of Education was a Penn State Graduate. These people were part of a large network which worked through the National Indian Education Association and which also founded the Indian Education Special Interest Group in AERA. Together the members of this network discussed and planned the changes necessary in the BIA schools.

In the 1970's, enrollments declined considerably in the BIA schools as other attractive possibilities were available. Indian parents had vouchers to use at five different types of schools. As tribal schools multiplied and as public school districts built more schools close to reservations, the competition with BIA schools increased. Congress grew increasingly impatient with the pace of BIA school reform and put pressure on the system to reform every time the appropriations hearings brought BIA representatives to Capitol Hill. With the rationalizing of the BIA school budgeting process in 1976, and the introduction of computerized management information processes in the 1980's, the system finally began to yield to Indian-led policy directions.

The curriculum reform of the BIA schools was carried out by very knowledgeable Indian professionals who worked together with tribal authorities and parents. They combined a cultural agenda with the effective schools research. They also humanized the dormitories and the classroom settings so that Indian students and parents would know that the schools were theirs and that the students would have a chance at post secondary education. The cultural agenda has become very important because many Indian students exercise the

choice of BIA schools simply because they are all Indian. The agenda includes dancing and singing as part of the curriculum, they employ medicine men to assist in maintaining mental and physical health, and provide many other opportunities for expression in the arts related to Indian life. The activities referred to as the performing arts, such as dancing and singing, in European cultures are spiritual experiences in Indian cultures. They are part of a seamless web of life experiences all of which bring nature and the person together, not in conflict. Public school climates can't handle this kind of experience because it is in direct conflict with the secular climate of that place (see State of Wisconsin v. Yoder). Indian languages are now an important part of the curriculum, again far different than the hostility to indigenous, or any "foreign" languages encountered in public schools.

Problems still exist with substance abuse, but with parental and tribal involvement, those people are part of the solution, not held in ignorance of what is going on in the BIA schools. The discipline in BIA schools has improved considerably over the chaotic conditions of the early 1970's when students began to rebel at the authoritarianism and racism of the school staffs. Many of the students in BIA schools are from broken families who need caring adults to help them through adolescence into adulthood. An increasing emphasis on Indian spirituality and self esteem is part of the curriculum, something that public schools cannot handle because of their aggressively secular atmosphere and ignorance of Indian cultures except as relics. In BIA schools, Indian cultures are treated as living entities, not as videos of the past in which selected students play scripts for entertainment of non-Indians. It is the cultural life of the schools that is really turning them into truly Indian schools, not schools for Indian students.

A few words about segregation. BIA schools are segregated into Indian only communities. The Indian nations are the only people who may enjoy segregation in schooling with people of their own cultures. It is guaranteed by regulation and law following the treaties. This is an Indian choice, no longer a White man's decision to keep Indian students out of sight. Indian students like the socialization with their blood brothers and sisters and gives them a chance to feel the solidarity and cultural strength that assist self-esteem. In an all-Indian school, the students are not in competition with non-Indians. This is true of Tribal schools and mission schools, as well. At the same time, it must be noted that the Indian people can attend public schools which are not segregated by race or culture, although in the schools on or near the Navajo Nation, many public schools are at least 90% Indian in enrollment. The important thing is that there is a choice, and that Indian students knowingly choose one kind of school cultural-spiritual climate over another with the trade-offs in competition, more or less achievement test orientation and more or less job preparation. It is a choice which many other Americans would love to have for their children.

The practical consequences are that the students try different kinds of schools at different times of their school lives. Many BIA students have been in a public school and some Indian public school students have been in a BIA school. Tribal and mission school students have also experimented with other kinds of climates. One choice does not keep one in place for the rest of the twelve years of schooling. Hence, the Indian students tend to be quite knowledgeable and sophisticated about what one gets out of different kinds of schools. Living in a dormitory is fine for some, but may grow less so as family conditions change, or personal objectives change.

What are the data on BIA schools? I offer two contrasting years, both of which are sufficient to reveal the trend in school choice. The day schools enrolled 20,153 students in 1990-91. In 1992-93, the enrollment in those schools was 22,418, more than a 10% increase in two years. The day schools are those with no dormitories attached, whose students are bussed to and from their homes daily, or in a few cases, walk to school. Most of these are elementary schools.

The dormitory schools enrolled 18,939 in 1990-91 and 19,459 in 1992-93, a 3% increase. These schools are those where the students live in, with dormitory staffs to supervise their living conditions and classroom teachers. The unionization of BIA teachers has unfortunately resulted in the strict segregation of teachers in classrooms from any possible helping roles with students after school hours in their dormitories, even though many of the teachers live on the school premises. Some principals have been training dormitory personnel to assist in helping students do homework. But the same effect is noted in public schools where unionized teachers are prevented from any extra assistance to students except for pay.

A final category of BIA unit is the peripheral dormitory, or what used to be called the bordertown dormitory. These units simply provide living quarters for Indian students close to public schools in locations such as Quemado or Aztec, New Mexico. The enrollment in these places rose from 1,749 in 1990-91 to 1,825 in 1992-93, a 4% increase.

These increases in numbers are a reversal of a trend. While not overwhelming, the percentage increases are larger than the increase in numbers of Indian students nationwide. They are students who must prove tribal membership, so admission to a BIA school is not just for the asking. The definition of Indian among public school students, for those who qualify for Title VII cultural programs, for example is much looser. School choice has resulted in stimulating Indian professionals, parents and tribal authorities together to improve BIA schools to the point where they can now compete for students, the first time that has happened in the roughly 125 year history of these institutions. The voucher in the hands of Indian parents is as potent instrument for improvement,

not alone in achievement orientation, but in other kinds of effectiveness which are related to cultural-spiritual support, self esteem, and cultural survival. In many essential aspects, the Indian schools are now "lighthouse schools". The next step in reforming American schools is to bring in Indian education people as experts to help the rest of the American educational system to change.

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